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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,941	05/21/2001	Ola Olofsson	TPP 31386	9543

7590

08/13/2004

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EXAMINER
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A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/806,941

Applicant(s)

OLOFSSON ET AL.

Examiner

Phi D A

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7, 11-14 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-14, 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/30/04 has been entered.

1. **PRODUCT BY PROCESS CLAIM:**

“ The subject matter present in claim is regarded as a product by process claim in which a product is introduced by the method in which it is made. It is the general practice of this office to examine the final product described regardless of the method provided by the applicant.”

This policy applies to the rejection of claim 6 below.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-5, 7, 11-12, 20-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of the claims is not consistent with the preamble of the independent claim 1 per the changes as amended.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7, 11-12, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svenska (SE8202375-5) in view of Glover et al (5054256), Porter (4671038) and Larrea (4435935).

Svenska shows a floor comprising a plurality of floor boards (1) with edges (2), at least one of the edges (2) having a distal end lying in a vertical plane, lower side (9) and a decorative top surface, a notch (7, figure 3) formed in the edge below the decorative upper surface, at least part of the notch being defined by a shoulder (the shoulder at 18), the shoulder terminating at a distal end, the floor boards joinable by means of separate joining profiles (4), at least one of the edges is provided with at least one groove (8) which groove is arranged parallel to its respective edge and that the joining profiles are provided with lips (11) arranged in pairs, the lips are intended to be received by the at least one groove of a respective floor board so that adjacent floor boards with the grooves at the adjacent edges are guided and fixed horizontally by the lips of the joining profiles, the lips are connected to each other by a middle section (4) of the joining profile, the groove of the floor board is on the lower side and is arranged at a distance from the closest edge (figure 1, the width is along the edge 9 or transverse to it) less than half of the width of a floor board, the floor boards are provided with a groove/notch (7) at the edges and the distance between each groove and the closest edge is about the same (inherently so as the edge meets at the center 4 of the profile), the distance between a center of one lip to a center of the second lip of the joining profile is less than the distance between a center of one groove on a first board to a center of a second groove on an adjacent board, the grooves on the lower side are

arranged at a distance from the closes edge less than one quarter of the width of the floor board, the top surface of the floor board is flush with the top surface of an adjacent floor board (figure 1).

Svenska does not show the joining profile and the lips when inserted into the groove does not extend beyond the lower side, the joining profile is provided with a central cheek section which is comprised by a first and second independently resilient cheeks which cheeks are provided with one tongue each whereby each tongue is received by one notch each so that the adjacent floor boards are guided in a vertical direction, a distance between the plane including the distal end of the edge and the distal end of the shoulder is greater than the width of at least one of the cheek.

Svenska further shows a central cheek having tongues (12) whereby the tongues are received by notches (7) so that the adjacent floorboards are guided in a vertical direction.

Glover et al (figures 5c, 7) shows a profile provided with a central cheek section which is comprised by a first and second independently resilient cheeks (104, 105) which are cheeks are provided with one tongue (106) each whereby the tongues are intended to be received by one notch each so that the adjacent floor boards are built in a vertical direction.

Larrea shows a joining profile (4, figure 1) joining two wall boards together with lips, the joining profile and lips when inserted into the grooves (11) does not extend beyond the lower side of the panel to enable the panels to be stably supported along their major surfaces.

Porter shows a distance between the plane including the distal end of the edge(edge of part 26) and the distal end of the shoulder(edge of shoulder 18) is greater than the width of at least one of the cheek to enable easy and secure holding of the joining profile to the panels.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Svenska to show the joining profile and the lips when inserted into the groove does not extend beyond the lower side as taught by Larrea, the joining profile is provided with a central cheek section which is comprised by a first and second independently resilient cheeks which cheeks are provided with one tongue each whereby each tongue is received by one notch each so that the adjacent floor boards are guided in a vertical direction as taught by Glover et al, a distance between the plane including the distal end of the edge and the distal end of the shoulder is greater than the width of at least one of the cheek as taught by Porter because having the profile not extending beyond the lower surface of the panels would enable the panels to be stably supported along their major surface as taught by Larrea, and having the central cheek section with first and second resilient cheeks would enable the easy snap fitting of the tongues into the notches as taught by Glover et al, and having a distance between the plane including the distal end of the edge and the distal end of the shoulder being greater than the width of at least one of the cheek would enable easy and secure holding of the joining profile to the panels as taught by Porter.

Per claim 4, Svenska as modified by Larrea inherently shows the part of the floorboard located between each edge and its respective groove is thinner than the maximum thickness of the floorboard by means of a recess located on the located side per the teaching of Larrea to have the profile not extending below the lower side.

Per claim 7, Svenska as modified shows all the claimed limitations except for the joining profiles being partially coated with glue or adhesive tape.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Svenska's modified structure to show the joining profiles being partially coated with glue or adhesive tape because it would ensure the joining of the floorboards to the joining profiles.

Per claim 12, Svenska as modified shows the lower sides of the floorboard being flush with the joining profile.

Per claim 20, Svenska as modified shows all the claimed limitations except for the upper surface of the floor boards having a shape selected from the group consisting of square, rhombus and rectangular.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Svenska's modified structure to show the upper surface of the floor boards having a shape selected from the group consisting of square, rhombus and rectangular because square, rhombus, rectangular are well known board shapes in the art.

Per claim 21, Svenska as modified shows all the claimed limitations except for the floorboards being partially coated with glue.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Svenska's modified structure to show the floorboards being partially coated with glue because it would ensure the joining of the floorboards to the joining profiles.

3. Claims 6, 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svenska (SE8202375-5) in view of Glover et al (5054256).

Svenska shows a joining profile comprising two upstanding lips (11) extending in the same direction, disposed at opposite ends of and perpendicular to a planar longitudinal extending

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middle section (4) having a midpoint such that the middle section terminates with the upstanding lips, a central cheek section (4) location substantially at the midpoint of the middle section, a cheek extending in the same direction as the lips (11) and not below the middle section, the cheek having first and second tongues (12) extending perpendicular to with respect to the cheek, the profile being formed from an elastic thermoplastic material.

Svenska does not show the central cheek being first and second resilient cheeks.

Glover et al (figure 7) shows a central cheek being first and second resilient cheeks (104, 105).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Svenska to show the central cheek being first and second resilient cheeks because having first and second resilient cheeks in place of a single cheek would enable the easy snap fitting of the tongues into the notches as taught by Glover et al.

Per claim 14, Svenska as modified by Glover et al shows the cheeks being separated by a space large enough to permit deflection of one of the first and second cheeks without contacting the other of the first and second cheeks.

4. Claims 22, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svenska (SE8202375-5) in view of Glover et al (5054256).

Svenska as modified shows all the claimed limitations except for the material being an extruded thermoplastic material, or the material being an injection molding material.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Svenska's modified structure to show the material being an extruded thermoplastic material, or the material being an injection molding material because extrusion and



injection molding plastic material are well known material in the profile art as the material is light weight and rust resistant.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svenska (SE8202375-5) in view of Glover et al (5054256).

Svenska as modified shows all the claimed limitations except for the material being a polyolefin.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Svenska's modified structure to show the material being a polyolefin because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, In re Leshin, 125 USPQ 416.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-7,11-14,20-24 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a stylized flourish at the end.

Phi Dieu Tran A

8/9/04